



March 13, 2007

ENGROSSED HOUSE BILL No. 1653

DIGEST OF HB 1653 (Updated March 13, 2007 11:06 am - DI 106)

Citations Affected: IC 35-44; noncode.

Synopsis: Sexual misconduct with an inmate. Makes it a Class C felony for a service provider to knowingly or intentionally engage in sexual intercourse or deviate sexual conduct with a person who is lawfully detained. (Under current law, the offense is a Class D felony.) Makes it a Class B felony for a service provider who is at least 18 years of age to knowingly or intentionally engage in sexual intercourse or deviate sexual conduct with a lawfully detained person who is less than 18 years of age.

Effective: July 1, 2007.

Dembowski, Duncan, Elrod

(SENATE SPONSOR — ROGERS)

January 23, 2007, read first time and referred to Committee on Courts and Criminal Code.
February 15, 2007, reported — Do Pass.
February 19, 2007, read second time, amended, ordered engrossed.
February 20, 2007, engrossed.
February 22, 2007, read third time, passed. Yeas 97, nays 0.

SENATE ACTION

March 5, 2007, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
March 13, 2007, amended, reported favorably — Do Pass.

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EH 1653—LS 7220/DI 107+



March 13, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1653

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-44-1-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) As used in this
3 section, "service provider" means a public servant or other person
4 employed by a governmental entity or another person who provides
5 goods or services to a person who is subject to lawful detention.

6 (b) A service provider who knowingly or intentionally engages in
7 sexual intercourse or deviate sexual conduct with a person who is
8 subject to lawful detention commits sexual misconduct, a ~~Class D~~
9 **Class C** felony.

10 (c) **A service provider at least eighteen (18) years of age who**
11 **knowingly or intentionally engages in sexual intercourse or deviate**
12 **sexual conduct with a person who is:**

13 (1) **less than eighteen (18) years of age; and**

14 (2) **subject to lawful detention;**

15 **commits sexual misconduct, a Class B felony.**

16 ~~(c)~~ (d) **It is not a defense that an act described in subsection (b) or**
17 **(c) was consensual.**

EH 1653—LS 7220/DI 107+



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1 ~~(d)~~ (e) This section does not apply to sexual intercourse or deviate
2 sexual conduct between spouses.

3 SECTION 2. [EFFECTIVE JULY 1, 2007] **IC 35-44-1-5, as**
4 **amended by this act, applies to offenses committed after June 30,**
5 **2007.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1653, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

HOY, Chair

Committee Vote: yeas 11, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1653 be amended to read as follows:

Page 1, between lines 9 and 10, begin a new paragraph and insert:

"(c) A service provider at least eighteen (18) years of age who engages in sexual intercourse or deviate sexual conduct with a person who is:

(1) less than eighteen (18) years of age; and

(2) subject to lawful detention;

commits sexual misconduct, a Class B felony."

Page 1, line 10, strike "(c)" and insert "(d)".

Page 1, line 10, after "(b)" insert "**or (c)**".

Page 1, line 12, strike "(d)" and insert "(e)".

Page 1, after line 13, begin a new paragraph and insert:

"SECTION 2. [EFFECTIVE JULY 1, 2007] IC 35-44-1-5, as amended by this act, applies to offenses committed after June 30, 2007."

Renumber all SECTIONS consecutively.

(Reference is to HB 1653 as printed February 16, 2007.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1653, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 10, after "who" insert "**knowingly or intentionally**".
and when so amended that said bill do pass.

(Reference is to HB 1653 as reprinted February 20, 2007.)

STEELE, Chairperson

Committee Vote: Yeas 10, Nays 0.

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